

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

FRED S. SILVERMAN  
JUDGE

NEW CASTLE COUNTY COURTHOUSE  
500 North King Street, Suite 10400  
Wilmington, DE 19801-3733  
Telephone (302) 255-0669

August 27, 2010

**(VIA E-FILED)**

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RE: *Cherie Jacques v. Lacrosse Homes, Inc.*  
*C.A. No. 08C-03-031 FSS*

Dear Counsel:

This decides Defendant's Motion for Costs. As Plaintiff points out, this was a Defendant's verdict. Accordingly, Superior Court Civil Rule 68 does not apply.<sup>1</sup>

As to discretionary costs, Plaintiff undeniably tripped and fell on

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<sup>1</sup>*See Hercules, Inc. v. AIU Ins. Co.*, 784 A.2d 481, 509 (Del. 2001) (citing *Delta Air Lines, Inc. v. August*, 450 U.S. 346, 352 (1981); *Roberts v. Bullard*, 1998 WL 960701 (Del. Super. Dec. 22, 1998) (Quillen, J.)) ("Rule 68 does not authorize an award of costs unless the plaintiff obtains a judgment that is 'not more favorable' than the offer. . . . [W]here . . . the plaintiff obtains *no* judgment from the defendant seeking costs (*i.e.*, judgment is for the defendant), Rule 68 does not apply.").

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Defendant's property and was seriously injured. While the "zero verdict" made sense, so did Plaintiff's filing suit. The court is also mindful that Plaintiff turned down a \$30,000 offer of judgment. Nevertheless, Plaintiff does not appear to have assets. Taking all of that and the evidence presented at trial into account, Defendant must be satisfied with the verdict.

For the foregoing reasons, Defendant's Motion for Costs is **DENIED**.

**IT IS SO ORDERED.**

Very truly yours,

/s/ Fred S. Silverman

FSS:mes  
oc: Prothonotary (Civil)